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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,853	06/29/2001	Manfred Weuthen	C 2213 US	9048

23657 7590 11/28/2003

COGNIS CORPORATION
PATENT DEPARTMENT
300 BROOKSIDE AVENUE
AMBLER, PA 19002

EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/896,853

Applicant(s)

WEUTHEN ET AL.

Examiner

Brian P Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed September 25, 2003. Applicant has amended claim 11. Currently, claims 11-23 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper Nos. 8 and 10.
3. The rejection of claims 11-22 under 35 U.S.C. 102(b) as being anticipated by Pruehs et al, U.S. Patent No. 4,898,621, is maintained for the reasons of record.
4. The rejection of claims 11-23 under 35 U.S.C. 102(b) as being anticipated by Schmid et al, DE 19738866, is maintained for the reasons of record.
5. The rejection of claims 11-14 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-14 of copending Application No. 10/257,853 is withdrawn in view of applicant's amendments and remarks. Specifically, applicant has amended instant claim 11 to require 25-75% by weight of water, which is not taught or suggested by claims 12-14 of copending Application No. 10/257,853.

R s p o n s t o A r g u m e n t s

6. Applicant's arguments filed September 25, 2003 have been fully considered but they are not persuasive.

Applicant argues that Pruehs et al, U.S. Patent No. 4,898,621, does not disclose that their rinse aid composition is a liquid, and that Pruehs et al does not disclose the presence of the claimed amount of water in its composition. However, the examiner asserts that Pruehs et al does indeed teach these limitations. Specifically, Example XIV of Pruehs et al discloses a liquid composition that contains 56% by weight of water, per the requirements of the instant invention. Furthermore, with respect to instant claims 17-21, the examiner maintains that Pruehs et al anticipates these claims, since Pruehs et al clearly teaches the addition of a hydroxy mixed ether to an aqueous composition, per the requirements of instant claims 17-21. Therefore, the examiner maintains that Pruehs et al anticipates instant claims 11-22.

Applicant further argues that Schmid et al, DE 19738866, does not disclose that their rinse aid composition is a liquid, and that Schmid et al does not disclose the presence of the claimed amount of water in its composition. However, the examiner asserts that Schmid et al does indeed teach these limitations. Specifically, Schmid et al discloses a liquid composition comprising 0.5-20% by weight of a hydroxy mixed ether of Formula (I), 0.5-20% by weight of nonionic surfactants, 0-40% by weight of a solvent, 0.1-50% by weight of a carboxylic acid, 1-20% by weight of an alkylbenzenesulfonic acid, and **water to balance** (see abstract and page 8, lines 25-27), per the requirements of the instant invention. Furthermore, with respect to instant claims 17-21

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and 23, the examiner maintains that Schmid et al anticipates these claims, since Schmid et al clearly teaches the addition of a hydroxy mixed ether to an aqueous composition, per the requirements of instant claims 17-21, and also teaches that the aqueous composition is used in a process for cleaning laundry (see attached abstract), per the requirements of instant claim 23. Therefore, the examiner maintains that Schmid et al anticipates instant claims 11-23.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Blm

Brian Mruk
November 23, 2003

Brian P. Mruk

Brian P. Mruk
Patent Examiner
Tech Center 1700